



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MDD - 175146

PRELIMINARY RECITALS

Pursuant to a petition filed June 23, 2016, under Wis. Stat., §49.45(5), to review a decision by the Disability Determination Bureau (DDB) to deny disability for Medical Assistance (MA) purposes, a hearing was held on July 27, 2016, by telephone.

The issue for determination is whether petitioner is disabled.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: No Appearance by the DDB

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marinette County.
2. Petitioner applied for MA on October 21, 2014. By a letter dated February 4, 2016, the DDB found that petitioner was not disabled. Petitioner sought reconsideration, but the DDB affirmed its determination on June 20, 2016.
3. Prior to or concurrently with the MA application, petitioner also applied for social security disability benefits and Supplemental Security Income (SSI). Those benefits were denied in April, 2015, with findings of no disability. Petitioner is awaiting a hearing on that denial.

4. Petitioner does not allege any new medical impairment other than the impairments considered in the social security decision.

DISCUSSION

A person between ages 18 and 65, with no minor children, must be blind or disabled to be eligible for MA. A finding of disability must be in accordance with federal social security/SSI standards. See Wis. Stat., §49.47(4)(a)4. Because the standards are the same, a finding of no disability for social security/SSI purposes made within 12 months of the MA application is binding on a State Medicaid (MA) agency. Exceptions may occur only if certain conditions exist such as allegations of a different disabling condition or changes in the previously considered conditions. None of the exceptions apply here. See 42 C.F.R. §435.541(a); see also U.S. Department of Health and Human Services commentary, 54 Fed. Reg. 236 (1989).

Because petitioner has been denied social security/SSI following a finding of no disability, I must conclude that petitioner is not disabled for MA purposes. At this time only the Social Security Administration can make a finding that she is disabled, but if it does, the MA program will follow that decision automatically.

That said, petitioner currently is receiving MA under the BadgerCare Plus program, which now is available to childless adults if income is below \$980 per month. For MA purposes petitioner's disability status would matter only if she received an increase in income or possibly required in-home care services (which would mean that her physical condition would have declined so much that disability probably would not be an issue).

Petitioner was concerned that being denied disability could mean that she would have to participate in the FoodShare work program, from which she currently is exempt. The standard for disability is different than the one for an exemption to the FS work program; the work program only requires a doctor's statement attesting to the inability to do work activities, and petitioner has provided such statements to the work program. If the FS program reversed the exemption petitioner could appeal that issue to this office.

CONCLUSIONS OF LAW

Petitioner is not disabled as that term is used for MA purposes pursuant to Wis. Stat., §49.47(4).

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 28th day of July, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 28, 2016.

Marinette County Department of Human Services
Disability Determination Bureau